

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

JUN 09 2004

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte JIANDONG HUANG, SEJUN SONG,  
TONY J. KOZLIK,  
RONALD J. FREIMARK and JAY W. GUSTIN

Application No. 09/513,010

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on May 20, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

Appellants filed an Information Disclosure Statement (IDS) on March 11, 2002, (Paper No. 5).

According to the Manual of Patent Examining Procedure (MPEP) § 609(C)(2) (Eighth Ed., Rev. 1, Feb. 2003):

Examiners must consider all citations submitted in conformance with the rules and this section, and their initials when placed adjacent to the considered citations on the list or in the boxes provided on a form PTO-1449 . . . provides a clear record of which citations have been considered by the Office. . . . Those citations not considered by the examiner will have a line drawn through the citation and any citations considered will have the examiner's initials adjacent thereto . . .

. . . If an item of information in an IDS fails to comply with requirements of 37 CFR 1.197 and 37 CFR 1.198, a line should be drawn through the citation to show that it has not been considered. The other items of information listed that do comply with the requirements of 37 CFR 1.197 and 37 CFR 1.198 will be considered by the examiner and will be appropriately initialed [emphasis added].

It is not clear from the record whether the examiner considered the statement submitted in this application or whether the examiner notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Accordingly, it is

ORDERED that the application is returned to the examiner for

(1) proper consideration of the IDS filed March 11, 2002 (Paper No. 5)

and

(2) notification to appellant in writing of such consideration, and

(3) for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:

  
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KIMBERLY JORDAN  
Program and Resource Administrator  
(703) 308-9797

cc: HONEYWELL INTERNATIONAL INC.  
101 COLUMBIA ROAD  
P. O. BOX 2245  
MORRISTOWN, NJ 07962-2245

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RA04-0596